



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed June 30, 2015, under Wis. Stat., §49.45(5), to review a decision by the Dodge County Dept. of Human Services to deny eligibility for a Medicare premium assistance program, a hearing was held on September 9, 2015, by telephone. A hearing set for August 12, 2015 was rescheduled at the petitioner's request.

The issue for determination is whether household income is over the limit for Medicare premium assistance.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Dodge County Dept. of Human Services
143 E. Center Street
Juneau, WI 53039-1371

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dodge County.
2. Petitioner is disabled. He resides in a home with his wife. Although still married petitioner and his wife are estranged. She allows him to live in her home because of his disability.

- [REDACTED]
3. Petitioner's income is \$900 monthly social security. His wife earns \$2,456.58 monthly from her job.
 4. After completing a benefit review, the county informed petitioner that Medicare premium assistance was denied because income was over the limit.

DISCUSSION

Qualified Medicare Beneficiary (QMB), Special Low Income Medicare Beneficiary (SLMB), and SLMB Plus are programs which provide assistance with Medicare Part B premiums for persons whose incomes are over the regular Medical Assistance limits. All three programs pay the entire Part B premium. See the MA Handbook, Appendix 32.1.1 for a full description of the programs.

The programs have progressively higher income limits. The QMB income limit for a two-person household is \$1,327.50. Handbook, App. 39.5. The SLMB limit is \$1,593. Handbook, App. 32.3 and 39.5. A person qualifies for SLMB Plus if income is below \$1,792.13; however, a person who receives MA is not eligible for SLMB+. Handbook, App. 32.4 and 39.5.

The fiscal test group for these programs is described in the Handbook, App. 15.1.1. The test group:

includes the individual who is non-financially eligible for Medicaid and anyone who lives with them, and who is legally responsible for them. EBD [Elderly, Blind, Disabled] fiscal test groups will always be a group of one (1) or two (2). Spouses who live together are in each other's fiscal group. This means that the income and assets of both spouses are counted when determining Medicaid eligibility for either or both spouses. The fiscal group size for this situation/living arrangement is two.

Even though petitioner and his wife are estranged for practical purposes, they reside together and are still married. Therefore they must be considered a household of two for MA purposes. I note that there are special rules for home-based community medical programs including MAPP, for which petitioner is eligible. Individual recipients in those programs are treated as a one-person fiscal group even if living with a spouse. The Medicare premium programs do not come under those special rules.

Petitioner's household income is over \$3,000 per month, and thus he is ineligible for QMB and SLMB.

CONCLUSIONS OF LAW

The county correctly determined that petitioner's household income is over the QMB and SLMB limits.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN

INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

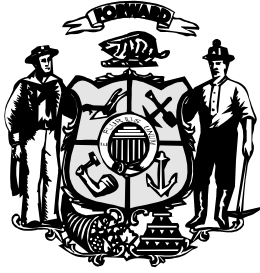
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 11th day of September, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 11, 2015.

Dodge County Department of Human Services
Division of Health Care Access and Accountability